

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 295 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

NARESH VALJI PATARIA

Versus

STATE OF GUJARAT

Appearance:

MR NV ANJARIA for Petitioners
Mr S T Mehta, APP for Respondent No. 1
MR AR THACKER for Respondent No. 2

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 20/11/97

ORAL JUDGEMENT

RULE.

Heard the learned Advocate for the applicant and the learned Advocate appearing for respondent No.2. The petitioners are facing trial under Section 498-A read with section 114 of IPC in the Court of Judicial

Magistrate First Class, Mundra, Kachchh with respect to the incident alleged to have been taken place in the year 1990. The charge-sheet was filed against them on 19.11.1991. The complainant submitted an application Exh.24 seeking direction for further investigation under the provisions of section 173(8) of Cr.P.C. on the ground that there are certain letters written by the accused. The said application was rejected by the learned Magistrate. The complainant filed a Revision Application against the said order which has been allowed by the impugned order dated 31.3.1997 passed by the learned Sessions Judge, Kachchh at Bhuj. It is contended by Mr N V Anjaria, learned Advocate for the petitioner that further investigation at this stage is nothing but unnecessary harassment to the accused persons. On the other hand, it is submitted by Mr Thakkar, learned Advocate for the complainant that the letters have a material bearing and further investigation would reveal that there is a case against the accused-respondents under sections 306 and 304-B of IPC.

2. Having heard the learned Advocates for the parties, I am of the view that the further investigation after more than seven years of the incident is unwarranted. The purpose would be served if these letters are allowed to be exhibited during the recording of the statement of the complainant. It is also open for the petitioners to make appropriate prayer at the appropriate stage, if there is sufficient material to request the trial court to frame the charge for offence under section 306 and/or 304-B of IPC. It is of course true that these offences are not triable by the Court of Magistrate but in such a situation, the Court can pass appropriate orders under provisions of Cr.P.C.

3. In view of the aforesaid, this Criminal Revision Application is allowed and the order of the learned Sessions Judge dated 31.3.1997 is quashed and set aside.

Rule made absolute accordingly.

20.11.97 [N N Mathur, J]

msh.